

VIOLATIONS AND SANCTIONS

1. Can a person be revoked for allegations?

An individual on supervision cannot be revoked based only on allegations. Violation allegations prompt an investigation to determine if there is evidence to support that the alleged behavior occurred. This can include victim and witness statements, police reports, physical evidence, client statement, etc. Once a violation is substantiated, the evidence-based response to violations decision making process is utilized to determine the appropriate response, which could be revocation if other intervention and accountability responses are not appropriate.

2. If an individual commits a rule violation without a charge of a new crime, will the decision matrix result in a noncustodial response?

The agent of record will not solely rely on whether or not there is a charge of a new crime when making the decision to use custody as the response to a violation. Instead, the client's risk level, the severity of the violation, and other relevant factors will be used to determine the appropriate response. Once the response level is determined, which includes an Intervention or treatment response and an accountability (sanction) response, the agent will look at a variety of options available to which they may respond. The response will be individualized to meet the needs of the individual, and to account for the specifics of the violation.

3. What is the criteria to determine if a violation represents a safety issue?

The DOC utilizes a violation response matrix that takes into account the risk of the offender and the severity of the violation behavior

4. In the presentation it stated "Most criminal violations" are "High or Very High" severity level. Is there a distinction between various alleged criminal behaviors? For example, alleged behavior that would be considered misdemeanor vs behavior that would be considered felony behavior?

Responses to violations are determined based on the Evidence Based Response to Violations, which takes into consideration the client's risk level, the severity of the violation, and other relevant factors. These factors are used, regardless of whether or not the criminal offense is a misdemeanor or felony.

5. Can DOC address the issue of clients in a DOC residential treatment center who may violate the no drug or alcohol use? What will happen if a client returns from an outside appointment and is under the influence of drugs or alcohol, and the treatment center determines it is in the best interest of the other clients in the facility and the staff for the client to be removed (possible jail hold for a day or two) for safety and security of the facility? Will this scenario still be allowable and will it be included on the Custody Decision Tree?

The DOC values the partnerships it has with our residential treatment centers. The agent of record will work closely with the residential treatment centers as responses to violations are determined. As with

any violation, each response is assessed using the Evidence Based Response to Violations, which takes into consideration the client's risk level, the severity of the violation, and other relevant factors. Once an appropriate response level is determined, there are multiple options for agents to consider under each response level. We will look at each case on an individualized basis and consider all factors for an appropriate response.

- 6. When determining whether the accountability response would be less than 1 year for parole and extended supervision cases, and therefore the individual is eligible for Short Term Sanction instead of revocation, is the calculation of less than 1 year versus more than 1 year based solely on the severity of the violation or is it also a function of how much time on supervision the person has remaining?**

The calculation of the recommended reconfinement time for extended supervision or parole cases is based on a percentage of time the client has available for reconfinement, which is categorized by the severity level of the behavior. If the violation has not resulted in criminal charges being filed, it is calculated at up to 15% of the time available. If this is less than 1 year, and there are no applicable aggravating factors that would support increasing the reconfinement time recommendation, a short term sanction will be used as the accountability response.

- 7. How are short term sanctions being administered in a rehabilitative rather than punitive sense?**

The DOC works to balance safety and accountability with evidenced based approaches to treatment, programming and education. Our responses help those in our care to have the resources necessary to be successful in the community and not return to incarceration or supervision. Responses to violations, including short term sanctions, require both an accountability response and an intervention response. Agents are encouraged to work with clients in applying interventions and skill practice while the client is serving a short-term sanction, or upon release from the sanction.

- 8. Where does Delivery of (F) drugs go on this list for extended supervision and parole cases? Category 2?**

This is a Category II violation and allows for up to 35% reconfinement if the client is revoked.

- 9. If the category violation percentage amounts to less than one year for extended supervision and parole cases, but there are not aggravating factors, will DOC still be moving to revoke and asking for the override to at least one year in custody, as is the common practice now?**

The updated policy and procedures does not allow for an override to the calculated reconfinement recommendation unless there are aggravating factors that would support this.

- 10. For extended supervision and parole cases, why is absconding considered a Category 2 violation if no harm is done?**

Absconding represents a basic failure to comply with any components of supervision, which is critical to rehabilitation and protecting the public.

11. Can you explain why possession/use of drugs is a Category I violation, but possession of drug paraphernalia is Category II for extended supervision and parole cases?

Possession of drugs and Possession of Drug Paraphernalia are both Category I.

12. For extended supervision and parole cases, category 2 and category 3 violations, DOC stated charges must be filed by DA office for revocation, unless there is an override, and that the reasoning behind this was if the state did not have enough evidence to proceed, the agent may not have enough either. A prosecutor is not supposed to proceed with charges unless we can prove a crime beyond a reasonable doubt. Given that agents are held to a much lower burden of proof, do you feel this requirement is appropriate?

At the point that categories and reconfinement time recommendations are being made for extended supervision or parole cases, revocation has already been determined as the appropriate response to the violation(s). Whether charges have been filed or not is a factor that only influences the amount of reconfinement time being recommended, and in some cases will influence if a short-term sanction will be utilized in place of reconfinement in prison.

13. If a person is on supervision for drug dealing, will they be revoked for continuing this behavior given the risk to the public by supplying drugs?

The agent of record is not solely looking at the violation to determine a response. Each response is assessed using the Evidence Based Response to Violations, which takes into consideration the client's risk level, the severity of the violation, and other relevant factors. Once an appropriate response level is determined, there are multiple options for agents to consider under each response level. Responses are applied on an individualized basis and consider all factors for an appropriate response. Risk to the public is always a consideration in the response.

14. If the Very High level for the Matrix has been removed, does that mean that the response to violation would max out at only 45 days in jail?

The Very High Risk Level is the only thing that has been removed from the Matrix calculation. Very High Severity levels for violations, as well as Very High Intervention and Accountability responses will continue to exist and be available for use in responding to violations.

15. What is the criteria used by agents and their supervisors to override the EBRV and what is the DOC doing to reduce the number of overrides, particularly when it comes to overriding an agent's decision not to revoke?

One of the reasons for these changes was to address some inconsistencies that currently exist and to provide clearer direction for decision-making, which is intended to result in clarifying how to appropriately apply discretion and should result in less overrides. Training will be provided to staff to ensure understanding of how these things should be appropriately applied.

16. What specific changes will be made to DOC's decision matrix to reflect the new changes being announced? When will these changes to the matrix be made?

We don't have a concrete implementation date at this time, however, we expect changes early in 2021.

17. Can you define "short term sanction"? Is it short enough that an individual will not lose their job?

Is it possible to state in the policy explicitly that short-term sanctions are for "1-to-30 days?" A weekend stay, rather than a 30-day stay could be the difference in whether or not a person is able to keep their job and their housing.

Short term sanction timeframes are outlined in current policy based on the risk of the client and the level of violation. Our draft policies state "up to" a specific number of days. The DOC is evaluating changing the level of response for medium, high or very high violations. In the new changes the accountability response for a low level violation will result in no further recommendation for sanction time. Medium level violations include a recommendation up to 20 days, High violations 21 to 44 days, Very High 45 to 90 days. Agents are always evaluating the individual circumstances of the client, including pro-social supports they have in the community, including family and employment.

18. For individuals subject to sanctions, but not to revocation, has DOC looked at the possibility of creating a menu of options so that individuals can take responsibility for their own rehabilitation? We believe it would be beneficial for people to have some control themselves over what they believe would help them.

Responses to violations are determined based on the Evidence Based Response to Violations, which takes into consideration the client's risk level, the severity of the violation, and other relevant factors. An appropriate response level is determined, which includes an Intervention or treatment response and an accountability (sanction) response. There are multiple options for agents to consider under each response level. This is very individualized, based on that specific client and the circumstances, in addition to focusing on their criminogenic needs and skill deficits. The treatment or intervention response also becomes part of their case plan, which is an interactive process with the client.

INVESTIGATIONS, REVOCATION AND ALTERNATIVES TO REVOCATION (ATR)

19. Will incarcerations still be used as ATR's in any circumstances?

We are transitioning from institution-based alternative to revocation to community-based alternative to revocation. For example, we had several program beds at MSDF, we have ended all programming for ATRs at MSDF and are shifting to community-based programming. However, incarceration will still be used as appropriate based on the type of violation.

20. Will the State of Wisconsin consider eliminating revocation for rule violations? The Federal DOC follows a different procedure and doesn't send people back to prison for rule violations. It's costly to taxpayers and to all humanity to continue incarcerating people for rule violations.

While one of our goals is to safely reduce the number of revocations, we believe the changes discussed during the Town Hall give DOC the flexibility to achieve that goal. We are committed to this initiative and are putting in the work necessary to safely and thoughtfully reduce the prison population. Having some flexibility allows for extraordinary circumstances where we want the ability to address specific violations that may need a more stringent response

21. What are some examples of community-based alternatives to revocations that the Department plans to use?

There are several opportunities for community based ATRs, and include, but are not limited to programming and treatment options such as Cognitive Behavioral Interventions for Substance Abuse, Domestic Violence programming, and sex offender treatment. Community based programming and treatment consider a variety of factors such as mental health needs, risk level and violation type.

22. Is the revised revocation policy, procedures and ECRM language available for the public to view?

The policies we have discussed today have not been formalized or finalized at this time. From the onset, we knew an important part of any potential changes, would be soliciting feedback from our staff and community partners. All DCC staff attended town hall meetings in September and have been afforded to the opportunity for feedback just as we are doing here today. All feedback will be taken into account prior to policies being finalized. Once finalized, all will be available on the Department's website.

23. Does DOC plan to increase its referrals for ATRs to available treatment court programs with these changes once implemented, thus providing more intensive treatment and support while remaining in the community?

DOC will continue to partner with treatment court programs and make referrals as appropriate. In order to utilize an ATR, revocation must be an appropriate response.

24. Why seek to "reduce revocations" as opposed to seek to have offenders successfully complete the judicial intent of probation?

While the intent is to have offenders successfully complete their probation, reducing revocation is simply another step the DOC can take to ensure offenders receive proper programming and rehabilitation, while also reducing the prison population.

25. Who is allowed to testify as a witness during a revocation hearing?

According to Wisconsin Administrative Code, "An attorney may issue a subpoena to compel the attendance of witnesses under the same procedure as provided by s. 805.07 (1), Stats. The secretary of the department of corrections, or any person authorized by the secretary to act in his or her stead, may issue a subpoena to require the attendance of witnesses, on behalf of the department of corrections, in any community supervision revocation proceeding as provided by s. 301.045, Stats. If a person on community supervision is not represented by an attorney, the division or the administrative law judge may issue subpoenas as provided in Ch. 885, Stats."

26. For those facing revocation, can they request a preliminary hearing and, assuming there is no history of absconding, ask to be released back to supervision pending the outcome of the final hearing? If not, why not?

In administrative code, a preliminary revocation hearing is not required in the following circumstances: The client is not being held in custody; it is waived in writing; the client has given and signed a written statement which admits the violation; there has been a finding of probable cause in a felony matter and the offender is bound over for trial for the same or similar conduct, including a federal grand jury indictment; or there has been an adjudication of guilt by a court for the same conduct that is alleged to be a violation of supervision. In each circumstance the Field Supervisor reviews the custody status of the person pending revocation and makes a finding. If a preliminary hearing is required, it is held within 15 working days of the date of custody. For revocation hearings, or when a final revocation hearing has been waived, the field supervisor will also make a custody decision, in the case of a waiver, or when a preliminary hearing is not required, based on the four factors outlined in administrative code which are:

- The offender is believed to be dangerous;
- There is a likelihood that the offender will flee;
- The offender is likely to engage in criminal behavior before the revocation takes place;
- The offender is likely to engage in an activity that does not comply with the rules and conditions of supervision;
- The length of the term to be served upon revocation is great.

The DCC has held revocation hearings out of custody and will continue to do so considering public safety in each case along with the considerations previously stated.

27. Do Administrative Law Judges (ALJ) work for DOC?

No, they work for the Department of Administration, in the Division of Hearing and Appeals.

28. How well versed are ALJs in criminal law and can the ALJ decide that an ATR is more appropriate and impose it?

Refer to the following Wisconsin Administrative Code on the Procedure and Practice of Corrections Hearings by following this link: https://docs.legis.wisconsin.gov/code/admin_code/ha/2#

29. Is DOC still placing holds on individuals who violate important conditions, such as no drink conditions, no drug use conditions, and even no contact conditions?

Each situation is dealt with on an individual basis using the Evidence Based Response to Violations, which takes into consideration the client's risk level, the severity of the violation, and other relevant

factors. Custody continues to be one of the available accountability responses that can be utilized if appropriate.

30. If an ATR is supposed to be an alternative to revocation, why wouldn't the failure of an ATR result in revocation?

Failure of an ATR can result in revocation, however, each situation is reviewed on an individualized basis and if the determination is that attempting another ATR or intervention response is appropriate given the circumstances, this will be allowed.

31. Why would DOC ever need to revoke/imprison someone for behavior that would not result in imprisonment if they weren't already on supervision (e.g., rules violations, non-criminal threats, etc.)?

Responding to violations in an effective manner is crucial to the overall success of an individual on supervision and can have a significant impact on reducing the risk of re-offense. The ultimate purpose of responding to violations is to increase public safety by appropriately equipping offenders to be successful in the community. Research related to violation response indicates that using responses that will both hold clients accountable and reduce the likelihood of future violations/new criminal behavior is most effective. Jail is utilized when it is determined that there is a risk to public safety and/or a higher level of response is needed to temporarily stop the current behavior.

32. What options are available for clients who cannot afford an attorney for their revocation hearing?

Clients have the option of requesting representation from the Office of Public Defender if they do not have appropriate resources to pay for an attorney.

33. Are clients allowed to see counsel before waiving their rights to a hearing?

Clients are encouraged to discuss options with their attorney prior to waiving their rights to a revocation hearing.

34. If a client on parole or extended supervision is alleged to have child pornography, (like in your example grid of 70% reconfinement) but the DA has not issued any charges, does that effect DOC's decision on whether or not to initiate revocation? If so, how is the recommended reconfinement time calculated?

Revocation can still be pursued in this circumstance and if there are no applicable aggravating factors, the recommended reconfinement time would be calculated based on Category I.

35. Given that incarceration can be a complete disruption of a person's life and can have real-life detrimental effects, does the DOC tell people on community supervision told how long the investigative process will take and how long they can expect to be in jail?

The agent of record keeps open lines of communication with the client regarding all details related to the custody throughout the process. In each circumstance, the Field Supervisor reviews the custody status of the person pending revocation and makes a finding. If a preliminary hearing is required, it is held within 15 working days of the date of custody. For revocation hearings, or when a final revocation hearing has been waived, the field supervisor will also make a custody decision, in the case of a waiver, or when a preliminary hearing is not required.

36. Will DOC follow existing law code and routinely use preliminary hearings to determine if an individual can stay in the community pending the outcome of their revocation hearing (and therefore not lose their job, housing, etc. - a clearly stated goal in 2013 Act 196)? Many states do not jail people waiting for hearings before the administrative law judge and there is no evidence that this compromises public safety. What is the reasoning and evidence behind this process? Will data on the number of preliminary hearings held versus waived be collected and published?

In administrative code a preliminary revocation hearing is not required in the following circumstances: The client is not being held in custody; it is waived in writing; the client has given and signed a written statement which admits the violation; there has been a finding of probable cause in a felony matter and the offender is bound over for trial for the same or similar conduct, including a federal grand jury indictment; or there has been an adjudication of guilt by a court for the same conduct that is alleged to be a violation of supervision. In each circumstance the Field Supervisor reviews the custody status of the person pending revocation and makes a finding. If a preliminary hearing is required, it is held within 15 working days of the date of custody. This hearing is held before a hearing magistrate and a decision is rendered pertaining to custody. For revocation hearings, or when a final revocation hearing has been waived, the field supervisor will also make a custody decision, in the case of a waiver, or when a preliminary hearing is not required, based on the four factors outlined in administrative code which are:

- The offender is believed to be dangerous;
- There is a likelihood that the offender will flee;
- The offender is likely to engage in criminal behavior before the revocation takes place;
- The offender is likely to engage in an activity that does not comply with the rules and conditions of supervision;
- The length of the term to be served upon revocation is great.

The DCC has held revocation hearings out of custody and will continue to do so considering public safety in each case along with the considerations previously stated.

37. Are violent new acts considered for revocation? Do the agents know that, as it appears, many locally do not understand if that is a directive? How do we get local agents to better implement the policies of DOC?

The Department of Corrections has a long standing policy that clients shall be detained for any allegations of assaultive or threatening behavior. Requests for exceptions to this policy may be granted by the Regional Chief or designee. Should allegations of assaultive or threatening behavior arise, the agent shall investigate the violation(s). For allegations that are substantiated a determination is made through the Evidenced Based Response to Violation as to the accountability response. Violent or

assaultive violations are high or very high severity levels. Each individual allegation is assessed as to their own merit. The decision to proceed with revocation or not is based on the outcome of the investigation and is determined on a case by case basis following a review by the agent and field supervisor. All revocation actions are reviewed by the Regional Chief and Assistant Regional Chief.

Circumstances around the violation and relevant factors regarding the offender (i.e. risk to community) must be considered when determining if an offender needs to remain in custody pending the investigation of the violation. The agent should determine if the accountability response and intervention response to the violation can be safely and effectively addressed while the offender is in the community. If so, then it may be appropriate to release the offender pending the final investigation of the violation.

38. Will these policy changes reduce the number of “After Hours” holds? Will revocation be removed as an option for people whose transgression is considered to be “low risk?”

The after-hours holds process was reviewed as part of this process. The DCC is recommending changes to the after-hours holds process including not detaining persons for drug/alcohol use solely at the time of contact with law enforcement after business hours. The DCC is also recommending that revocation not be initiated solely for drug/alcohol use unless specific criteria are met. These include exhausting all available treatment resources and if it is behavior related to the underlying conviction. Staff also determine if an out of custody revocation is appropriate based on the risk and violation type.

RULES OF SUPERVISION

39. Do these recommendations include decreasing the number of Rules of Supervision for clients on community supervision?

Standard rules of supervision are governed by Administrative Code. The process for reviewing and potentially changing administrative code pertaining to the standard rules has been initiated. When the workgroup reviewed the current administrative code pertaining to rules of supervision, there was initial thought that the total number of general rules could be reduced; however, it remains in process.

40. What are the Standard Rules of Supervision?

These 18 standard rules apply to all clients on supervision, identified in our administrative code. They can be found by visiting our public website at:

<https://doc.wi.gov/Pages/AboutDOC/CommunityCorrections/SupervisionRules.aspx>

41. What are examples of Special Rules of Supervision?

Special rules are added to the standard rules in specific circumstances when they are necessary for the rehabilitation of the client and/or to protect the public, such as a no drink rule.

42. Can a client ask for a review of their rules, if the person believes the rule shouldn't apply to them?

A policy is being reviewed which requires the review of special rules every six months, re-signing the rules with the client each year. Further, this policy will state rules are to be reviewed by the sending agent prior to transferring the case, and reviewed and re-signed with the receiving agent and the client. The DOC also identified standard special rules created by crime typology (Domestic Violence, OWI, Substance Use, etc.) to help eliminate special rules that did not apply to specific individuals.

43. Will DOC continue the practice of placing non-court ordered "no contact orders" on the people in their care as part of their rules?

Special rules, including no contact orders, are added to the standard rules in specific circumstances when they are necessary for the rehabilitation of the client and/or to protect the public. This practice will continue to take place for those reasons. Public safety and accountability remain our number one priority. We strive to find balance between being too harsh with revocations and too lenient with violations. We will continue to protect public safety by assessing risk to the community when violations occur.

44. Are there any estimated timelines for how long it will take to adjust those nine rules in the administrative code?

This is a lengthy process that can take months all the way up to a year.

45. As long as you are initiating an administrative rules process to change the 18 standard rules of supervision, why not expand it to include the public rule-making process mandated by 2013 Act 196 and implement the significant short-term sanction program system required by this legislation?

The Department is in compliance with 2013 Act 196. The details contained within are addressed through policy and procedure.

46. Will there be an opportunity for the DOC to eliminate or modify any of the 18 rules for general supervision?

Standard rules of supervision are governed by Administrative Code. The process for reviewing and potentially changing administrative code pertaining to the standard rules has been initiated. When the workgroup reviewed the current administrative code pertaining to rules of supervision, there was initial thought that the total number of general rules could be reduced; however, it remains in process.

47. As guidance changes in regard to revocation, how will the Department deal with supervisors' discretion? Will there be a limit to how often agents, or supervisors, or regions, can override the new standard guidance?

The policy changes involve practices that continue to be aligned with evidence based practices, including adhering to the risk need responsibility model. One of the reasons for these changes was to address some inconsistencies that currently exist and to provide clearer direction for decision-making, which is

intended to result in clarifying how to appropriately apply discretion and should result in less overrides. Training will be provided to staff to ensure understanding of how these things should be appropriately applied.

48. Will there be a separate rules matrix for sex offenders? I fear that this growing population in the system will always be considered “high risk.” Will the new system create a meaningful distinction between those who do pose danger, and the vast majority who do not?

DCC implemented a separate rules matrix for sex offenders to allow for agents to impose restrictions related specifically to dynamic risk factors related to different types of sex offending. As part of the changes we are discussing today, we took this a step further, adding specific violation behaviors to our matrix determination, which also address dynamic risk specific to certain types of offending, including sex offending. This will result in higher level responses to those who pose a higher risk related to their risk factors and a lower level response for those who do not present unique risk factors.

SUBSTANCE USE, MENTAL HEALTH, TREATMENT PROGRAMS AND COMMUNITY RESOURCES

49. Who pays for the treatment if a client's continuous violations are substance abuse related? What about areas with little or no treatment provider availability?

Payment for treatment depends on several factors that include but are not limited to the clients risk level and health insurance. DOC is able to fund treatment under certain circumstances. At this time we are expanding our use of telehealth to help bridge the gap in areas where this is minimal amount of treatment providers. In addition we have offered our inpatient treatment programs statewide.

50. Evidence shows a person can attend treatment many times and, unless they are ready, they will not benefit or change. What is being done to ensure readiness prior to a person being placed into a treatment program?

DCC staff are being trained statewide to address skill deficits during office visits to improve DCC client's success in the community and in treatment. This skill building is an evidence based practice for justice involved individuals.

51. These revocation conditions related to AODA issues seem likely to severely undercut AODA treatment court options. What consideration is being given to supporting treatment courts and keeping them viable?

DCC plans to continue to support treatment courts and keep them viable.

52. Many clients in rural areas have difficulty with transportation, often with no public transportation available and no valid driver's license. What happens if a client cannot make it to the treatment program as directed? Does DCC assist with transportation? Is there virtual programming available?

These situations are addressed on a case by case basis. Recently there has been an increase in support for telehealth services and this has helped those with transportation issues.

53. Are there ways to help Probation and Parole agents identify clients who may have mental health needs in an effort to decrease violations and revocations? Are there mental health trainings available to agents?

Yes, DCC does have some staff that have specialized caseloads of clients with known mental health needs. DOC sponsored training is available as well as training from the regional psychologists in the field. DCC recognizes mental health as a responsivity need and certainly works to address this need in collaboration with other assessed needs.

54. When someone has a documented severe mental illness, why would DOC choose prison with no services over a treatment plan that would help them become a better member of society such as an ATR with an intensive MH treatment plan, medication management, mentoring, TLP and GPS monitoring?

Mental illness is definitely a responsivity need that requires treatment. These options are always explored as a means to respond to mental illness. There are times when those services are exhausted and public safety requires a more secure setting.

55. Are there any changes related to clients who are on conditional release under an NGI commitment?

Persons found Not Guilty by Reason of Mental Disease or Defect are referred to as "NGI (Forensic) clients." When a court finds a defendant in a criminal case to be Not Guilty by Reason of Mental Disease or Defect, [Wisconsin Statute 971.17](#) provides that the court commit the person to the custody and control of the [Department of Health Services \(DHS\)](#). The court will issue an order for placement in either institutional care or on conditional release.

[DHS](#) contracts with the Department of Corrections (DOC) to provide community supervision services to persons conditionally released and administratively transferred. When revocation is pursued, the normal DOC revocation process is not followed. The revocation hearing will be conducted by the committing court. The local district attorney is responsible for establishing clear and convincing evidence that the conditional release be revoked. The agent may be called to testify as to the reason(s) for the requested revocation.

56. Is the DOC working to find programs in the community to serve those with mental health issues, given that population is adversely affected by incarceration?

We are always searching to find programs and resources in the community to serve those with mental health issues. One of the unintended benefits of this pandemic is using technology and telehealth to serve those with mental health issues. It's opened up a whole new world of possibilities for the use of technology to provide more programming and treatment throughout the state for those on supervision.

Using this technology, we're able to reach out to those in areas of the state who wouldn't normally have access to this sort of treatment.

57. I've heard from counties that DOC is putting this responsibility on clients who don't have the resources to pay for it/counties who don't have the money to provide it. What are DOC's resources for community treatment?

We are always looking at ways to increase funding for community/treatment based options. We are also implementing changes to better share resources across the state and improve our procurement practice in order to more effectively use the funding that is allocated for community resources.

58. Regarding the clients that you want to address treatment options in the community...Is the DOC or DCC going to be funding this response? There are minimal options for DOC funded treatment options in many regions (specifically Region 1), and a continued battle of who is the last payee for the client between State and County funders. Are other options of treatment going to be offered for DCC clients in our community?

DCC is always looking for more efficient ways in using funding for treatment options in the community. In addition DCC continues to follow evidence based practices to increase and improve treatment that is offered in the community.

59. As DCC works to decrease revocations (an important goal) is there also talk about investing resources in EXPANDING in-person services open to folks in their community (so as to not alienate them from the good, stabilizing things in their lives)? Telehealth is a great option for folks but many individuals do not have the access to the technology, internet or the knowledge or ability to do telehealth.

Yes, we continue to look for ways to expand in-person services to the community. However, as mentioned in the town hall, some regions of the state (especially parts of northern Wisconsin) simply don't have enough in-person resources to provide the necessary services, which is when we can turn to telehealth.

60. With the transition away from institutional ATR programs to community based options, will there be more funding provided to increase the number of programs and capacity within current programs to meet this need?

At this time we are working with the same funding opportunities, however we are looking at more effective and efficient procurement processes to make better use of the current funding available.

61. What is the Department's plan to ensure that quality treatment and programming will be consistent and constant?

DCC has regularly scheduled corrections program checklist reviews of contracted programs. These reviews look at the services being provided against a checklist of evidence based practices. The checklist

provides feedback to the vendor on areas that need better alignment with evidence based practices. DCC then works on action plans with community vendors to help them with this alignment. Each contractor also has a program and planning analyst that works with DCC procurement on contract compliance.

62. How do these changes affect individuals involved with Treatment Courts? Will the proposed changes effect referral and admissions to treatment courts?

DCC does not intend to change the work and support with treatment courts.

63. What is being done to reengage individuals after their release from incarceration, particularly during this pandemic?

Agents are using motivational interviewing as well as risk reduction strategies with their clients to contact to include virtual contacts. Clients are also being referred for appropriate resources in the community based on their needs and risks.

64. With the emphasis on returning clients to treatment again and again, is there a risk of clients (and Agents) starting to think of treatment as punishment?

The goal is to reduce incarceration (punishment) for failed treatment attempts and to emphasize that certain behaviors are better met with treatment options than with incarceration.

65. Does DOC acknowledge that relapse is part of the journey of recovery and that community-based treatment is more effective than custody-based treatment?

Yes. The current message and emphasis is that behaviors involving addiction are better met in treatment programs than incarceration. These changes have also shifted the focus from custody based treatment to community based treatment.

66. Is the DOC concerned about a lack of community-based resources? What is the DOC doing to expand community-based resources? One example: you're losing your resources of ATR beds at MSDF.

We are continually reviewing our agency's ability and capacity to provide resources in the community, and how we can make improvements. We have been able to increase resources statewide through the use of telehealth services, and plan to continue to explore ways of using and expanding this as an option for those in DOC's custody. Telehealth services assists in closing the gap for areas that have limited resources or where geographic issues are a barrier.

We are also looking to hire additional DOC employees that will be able to provide programming resources to clients on community supervision. Our agency continues to look at all the positions within our agency and utilize the positions we have where they will be most effective. Sometimes this means moving positions around throughout our agency. We have staff in each region who continually analyze

the need for resources and services in the community and use our procurement process to bring more resources in for the clients that need them. Those same staff have relationships with our community partners and work with agents to ensure they have a good understanding of the resources that are available to our clients in the community. During the pandemic, DCC has continued to work with community vendors to find ways to continue providing resources and services to our clients in a safe way. Our budget is a reflection of these priorities.

67. Has the DOC considered a needs assessment tool, including a community needs assessment? This goes hand-in-hand with the idea that programming needs to be person-centered, taking into account past trauma, epigenetics, and other factors.

The Department of Corrections utilizes a risk and needs assessment called COMPAS. This assessment tool identifies risk and needs of the clients we supervise. Probation and Parole Agents are trained how to score and interpret the assessment to target the needs specific to each offender. Staff are also trained to identify any barriers that may be driving the client's ability to engage in programming or treatment. These barriers are referred to as responsiveness factors. These barriers can include but are not limited to past trauma, residence instability and mental health. Other factors are taken into consideration such as gender, culture/race and educational level.

68. Are community corrections personnel trained on trauma-informed care, and on cultural humility? Can DOC/community work together to help offer training to help staff understand cultural humility? How do we help staff to remove these barriers?

Yes, the Department of Corrections has worked in partnership with other state agencies on a trauma-informed care initiative. This initiative has involved training and educating staff with the goal of creating a trauma informed culture in DOC. Also in response to Executive Directive 59, the DOC has created a diversity, equity and inclusion advisory committee. This committee has been charged with creating an equity and inclusion plan. Often trainings are provided by the community and not DOC staff.

69. I have concerns about more clients needing treatment and access to care when clients are having ongoing violations. As a provider for Behavioral Health, needing access to IOP, Day Treatment or Residential can be challenging at times. What is DOC's position on the need for community-based resources like this?

We are always looking at our capacity to provide resources in the community. Currently we are providing state-wide telehealth services. This is an attempt to close the gap in areas that don't have resources or geographic issues are a barrier. DOC is also beginning to hire DOC employees to provide programming resources to DCC clients. Lastly we are continuously analyzing the need and going through the procurement process to solicit more resources for the community. During the pandemic we are helping community vendors with resources to continue providing service in a safe way.

70. We often work with probation agents that agree with the need for more treatment-focused options but there is rarely any funding for this. Is part of the reform including funding for treatment or alternatives to revocation like supervised living, alcohol ankle bracelets, and scheduled breathalyzers?

We are always looking at ways to increase funding for community/treatment based options. We are also implementing changes to better share resources across the state and improve our procurement practice in order to more effectively use the funding that is allocated for community resources. In addition our staff are learning risk reductions strategies that will help their individual contacts with clients with the goal of increasing the chance of reducing recidivism in DCC.

71. Does the DOC have a policy on agents working with Treatment/Drug Courts? If a county asks for an agent to be part of a drug court team, will one be assigned? Is there flexibility within the violations response and revocation to tailor the response to correspond to treatment court sanctions?

DCC does have an administrative directive which guides parameters regarding DCC participation in specialty courts and we try to be active partners with new and existing specialty courts as our staff resources allow. We also encourage the use of an MOU to define roles and responsibilities for those involved on the treatment court team. Regarding responses for treatment court violations, although DCC staff make all attempts to work collaboratively with the treatment court teams in deciding on appropriate violation responses, there may be certain circumstances where the team's recommended response is contradictory with DCC policy, procedure or expectations. In these cases, DCC retains the ability to respond in a way they find to be appropriate.

DATA AND OUTCOMES

72. Does DOC track the number of individuals with substance abuse issues and mental health needs?

We have access to reports from our risk and needs assessment toll (COMPAS).

73. How will success be measured? Will there be a way to determine whether the changes enhance community safety? Will the number of those incarcerated be impacted by these changes?

We have every intention of evaluating outcomes and will work closely with data analysts in our Research and Policy Department. DCC considered evidenced based research and current data trends when making these recommendations, and we will continue to evaluate all relevant data as we move forward. We will measure outcomes by looking at numbers of violations, revocations, re-arrest data, overall recidivism and DAI admission numbers due to revocations. Data will be used to measure success and areas where improvement is still needed.

We will want to see our overall revocation numbers decline, but it will be important to balance that with public safety, which is why that re-arrest date and our recidivism numbers will be so critical in our evaluation. We currently have an interactive dashboard open to the public showing holds, and this data is frequently evaluated within our agency. If we are effective in accomplishing our goals, we will see an overall decline in the number of individuals who are reincarcerated due to technical violations.

74. Are administrative code rules changed by DOC or WI legislators?

State agencies promulgate administrative rules to establish agency procedures for administering programs, but the process is subject to oversight by the Legislature and Governor. Before work on administrative rules can occur, the DOC must notify the Governor of the proposed change and receive approval to begin the rulemaking process. Once DOC has completed the rulemaking process, the proposed administrative rules need to again be approved by the Governor and then submitted to the Legislature for approval.

75. How will outcomes be measured and what are the DOC goals around reducing the prison population and total revocations?

We have every intention of evaluating outcomes and will work closely with data analysts in our Research and Policy Department. DCC considered evidenced based research and current data trends when making these recommendations, and we will continue to evaluate all relevant data as we move forward. We will measure outcomes by looking at numbers of violations, revocations, re-arrest data, overall recidivism and DAI admission numbers due to revocations. Data will be used to measure success and areas where improvement is still needed.

We will want to see our overall revocation numbers decline (as well as the overall prison population), but it will be important to balance that with public safety, which is why that re-arrest date and our recidivism numbers will be so critical in our evaluation. We currently have an interactive dashboard open to the public showing holds, and this data is frequently evaluated within our agency.

76. What is your estimate of the best-case reduction in the prison population based on these changes?

The DOC's goal is to see an overall reduction in prison admissions, but at this time, we won't know how much of an impact these changes will have until we implement them. We do, however, expect these changes to have a significant impact.

77. Can the Department share any of the "evidence" upon which its "evidence based" interventions are premised?

The DOC puts a lot of effort to ensure our approaches are backed by science and data. One such way in which we use evidenced based practices for effective interventions, is by using the National Institute of Correction (NIC), eight (8) Principles for Effective Offender Interventions. Research supports following this principle to improve public safety through risk and recidivism reduction. The (8) Principles are:

1. Assess Actuarial Risk/Needs.
2. Enhance Intrinsic Motivation.
3. Target Interventions.
 - a. Risk Principle: Prioritize supervision and treatment resources for higher risk offenders.
 - b. Need Principle: Target interventions to criminogenic needs.
 - c. Responsivity Principle: Be responsive to temperament, learning style, motivation, culture, and gender when assigning programs.
 - d. Assigning a Dosage structure
4. Skill Train with Directed Practice (using Cognitive Behavioral treatment methods).
5. Increase Positive Reinforcement.

6. Engage Ongoing Support in Communities.
7. Measure Relevant Processes/Practices.
8. Provide Measurement Feedback.

COVID-19

78. Is drug and alcohol testing taking place during COVID-19?

Yes, drug and alcohol testing continues to take place during COVID-19 in a safe manner.

79. Are the changes taking place temporary COVID-19 measures or new policy recommendations? If so, what is the protocol?

These will be permanent policy changes. Work on these recommendations began in early 2019, before the COVID-19 pandemic began.

80. It appears at present that counseling and supervision are very limited due to COVID. How will the new policies create enhanced rehabilitation if counseling is not available or agents have such limited contact with clients?

The new policies emphasize the need for treatment for specific behaviors and DCC continues to work with community agencies to expand resources to meet these needs. Expanding statewide telehealth services will definitely help fill some of the gaps.

MISCELLANEOUS AND GENERAL

81. Can you clarify criminal behavior versus violations of supervision?

“Criminal Behavior” is a behavior that could be charged criminally; for example, anything subject to a criminal charge. When we apply this term to extended supervision or parole cases, it means an actual charge has been filed by a DA or prosecutor. Another example is a person not reporting (i.e., a non-criminal rule violation) versus a person possessing drug paraphernalia, which is considered to be criminal regardless of if charges have been filed.

82. What are examples of meaningful interventions?

The DOC uses evidence-based responses that have the ability to reduce someone’s risk and reduce recidivism. We use the risk-need responsivity model and the national institute of corrections eight principals of intervention.

83. What is being done to reduce the number of unnecessary incarcerations instead of locking someone up as soon as there is a violation reported, which can result in job loss and family stress?

We continue to look for evidenced-based ways to offer alternatives to revocation, where appropriate, but will continue to protect public safety by assessing risk to the community when violations occur. Jail

terms can, and will, be used to balance public safety. We can accomplish our goals, keep our communities safe and hold people accountable by ensuring we:

- Consider the risk of the individual who has a violation;
- Consider the severity of behavior or violation;
- Enforce swift sanctions; and
- Focus on less intrusive responses for our low-risk clients.

84. Aren't we putting the community at more risk by not holding people accountable for their actions?

Public safety and accountability will remain our number one priority as we move forward with implementing changes with the revocation process. We strive to find balance between being too harsh with revocations and too lenient with violations. This initiative will look for evidenced-based ways to offer alternatives to revocation, where appropriate, but will continue to protect public safety by assessing risk to the community when violations occur. Jail terms can, and will, be used to balance public safety. We can accomplish our goals, keep our communities safe and hold people accountable by ensuring we:

- Consider the risk of the individual who has a violation;
- Consider the severity of behavior or violation;
- Enforce swift sanctions; and
- Focus on less intrusive responses for our low-risk clients.

It is important to note that responses to revocation do not have to be punitive in order to be effective or to hold an individual responsible for their actions. Research shows that having a person engage in the work as a response for their action or in their recovery can be extremely effective and challenging. This initiative will look for evidenced based ways to offer alternatives to revocation where appropriate. Our agency will look at how we are responding to violations, and it will take risk into consideration when doing so. It is important to note that responses to revocation do not have to be punitive in order to be effective or to hold an individual responsible for their actions. We know research shows us that having a person engage in the work as a response for their action or in their recovery can be extremely effective and challenging. Jail can and will be used as necessary to balance safety.

85. Given that some of these changes may be difficult for some staff, how will the DOC enforce the changes with agents and supervisors?

As with any change, communication is key. We are confident in the skills and abilities of our staff, and know they come in to work each day ready to do the work necessary to keep others safe and help others to be successful.

Proposed changes were communicated to agents early on prior to finalization of any policy changes. Supervisors have also been conducting sessions with staff to further review changes and solicit feedback. Staff have had an opportunity to learn about the proposed changes and email feedback and suggestions to leadership for consideration, which has been extremely helpful as we finalize details. We feel this level of transparency and communication will assist with the buy in necessary to be successful.

86. What are the tools for Agent Intervention Response?

Agents have a variety of tools available to them to address skill deficits of the persons on supervision. These include training in the areas of Core Correctional Practices and Motivational Interviewing. In addition to the training that is offered to staff, they are provided with materials that can be discussed with and shared with the clientele including The Carey Group, The Change Company and the University of Cincinnati. In addition, agents are able to refer clients to programs that are funded by the Department of Corrections through the purchase of goods and services process. They are also able refer clients to community based programming or through programs and services available to them through their employer.

87. What is the plan to make these policy changes reflective in our legislature?

Outside of the Rules of Supervision changes in Administrative Code, the changes we are proposing do not require legislative change. These are at the policy level.

88. Does DOC use rewards/incentives for clients for positive behavior change?

Yes. When learning new skills and making behavioral changes, research has shown that human beings respond better and maintain learned behaviors for longer periods of time, when using positive reinforcements more often than negative reinforcements. In the DOC, this is part of training for all staff and we ask to apply a ratio of four positive to every one negative reinforcement when possible. The DOC uses positive reinforcement wherever we are able to safely and ethically do so. Other rewards/incentives include early discharge for persons on parole or probation, removing monitoring equipment early, adjusting curfew times and reducing the reporting schedule. Congratulatory letters are also sent by staff in the DCC including from field supervisors and regional management staff.

89. Are there any efforts, such as those occurring in other states right now, to cap the length of supervision to better align with evidence-based more positive outcomes?

There are no current efforts to change the length of a supervision term for persons on extended supervision. People on probation or parole are eligible for an early discharge provided they meet the following criteria:

PROBATIONER

- Served at least 50 percent of the probation term.
- Minimum or Administrative supervision for a reasonable period of time
- Satisfied all conditions of probation that were set by the sentencing court
- Satisfied all rules and conditions that were set by the Department
- Fulfilled all financial obligations to his or her victims, the court, and the department, including the payment of any fine, forfeiture, fee or surcharge, or order of restitution.
- No outstanding warrants

- Not required to register under [s.301.45](#)

PAROLEE

- Reached mandatory release date or has been under supervision for two years
- Minimum or Administrative supervision for a reasonable period of time
- Satisfied all conditions that were set by the sentencing court
- Satisfied all rules and conditions that were set by the Department
- Fulfilled all financial obligations to his or her victims, the court, and the department, including the payment of any fine, forfeiture, fee or surcharge, or order of restitution
- No outstanding warrants

90. Is DOC's ultimate goal fewer revocations and reincarcerations or helping clients to be more successful on supervision?

These specific goals are intended to increase success for persons on supervision by reducing revocations, reducing the number of prison admissions related to revocations, reducing the total number of persons in jail on revocation holds, increasing community-based alternatives to revocations and use data to drive decisions and allocate resources. We remain committed to providing opportunities for individuals under our care and supervision to find positive change and successfully complete their supervision.

91. Have you projected (by county) the anticipated increase in local jail bed days at county jails?

No, not at this time. However, we are committed to working closely with counties as we anticipate/see these changes having an impact.

92. Have you evaluated the length of time under supervision? I see from a Badger Institute study that WI has much longer maximum timeframes for supervision, resulting in some being supervised for decades.

The length of a bifurcated sentence, including the portion served within a secure facility and the portion served in the community on extended supervision, is established by the courts based on state statutes. DOC is responsible for enforcing the sentence imposed by the courts, but is prohibited from discharging an individual from custody or extended supervision until the entire bifurcated sentence has been served.

93. Is the DOC concerned that this policy undermines agents' discretion to recommend dispositions specifically tailored to their clients' needs?

The DOC recognizes that our staff are our most valuable resource. Many of the proposed changes discussed were made with staff in mind. Early on in this process a workgroup with diverse membership throughout the state was established to ensure representation and voices from each region was considered. Further, proposed changes were communicated to agents, and supervisors conducted sessions with staff to further review changes and solicit feedback. Staff also had an opportunity to learn about the proposed changes and email feedback and suggestions to leadership for consideration. This information has been very useful during this process as we finalize details.

94. What work will need to be done to educate our community with the changes DOC is proposing and to understand the benefits of such changes?

We started this work with town hall meetings. We will continue to engage internally and externally to educate and communicate changes and the impact of those changes.

95. Do all of these proposed changes need to go through the Wisconsin legislators?

Many of these changes are DOC policy, and therefore can be changed without the approval of the state legislature. However, the 18 standard rules of supervision are governed by administrative code and would need approval of elected officials before changes can be made.

96. Is the DOC concerned that these policy changes will prompt prosecutors to file new criminal charges in order to prompt DOC intervention?

The District Attorney's Office has the ultimate authority to issue criminal charges. They have a legal obligation to review the facts of a case and make a determination as to when or if charges are filed. The decisions pertaining to a violation of supervision are separate from the process undertaken by the District Attorney. Whether or not pending charges are filed, staff can still pursue revocation if it is in accordance with the proposed policies and is approved by the Field Supervisor and Regional Chief/Assistant Regional Chief. The amount of forfeiture time that is recommended by the agent for extended supervision or parole case reincarceration is based upon the nature of the violations and is in accordance with our proposed reincarceration recommendation grid. Deviations from the grid recommendations may occur provided certain aggravating factors exist.

INEQUITIES IN THE CRIMINAL JUSTICE SYSTEM

In 2019, Governor Tony Evers asked the DOC to begin taking the steps necessary to reform the criminal justice system by reducing the state's prison population and address the overcrowding in our institutions and racial disparities that exist. Leadership within DOC began by committing to the values of justice, fairness and public safety throughout our agency and began evaluating our organization to find areas in which DOC has the sole authority to enact change and promote a more just system.

In the last two years, the DOC has taken several steps to make improvements, beginning by evaluating and updating our policies and procedures when they may directly or indirectly contribute to inherent

and unconscious bias and the overcrowding of our institutions. For long-term reform to be successful, all criminal justice agencies in our state must work together on this common goal, but DOC remains committed to doing our part, and working alongside our partners on effective criminal justice reform efforts.

Some of DOC's efforts in this area include:

- Expanding our communications team to ensure DOC has the resources necessary to communicate and collaborate with our community criminal justice partners and state legislators. DOC will continue to listen and engage these and other stakeholder groups as it takes the necessary next steps towards reforming the state's criminal justice system.
- Expansion of the Earned Release Program which will assist in reducing our prison population by serving eligible persons in our care with substance abuse disorders, and engaging them in programming and treatment that may assist in their early release upon successful completion.
- Evaluating and working to reform the policies and procedures related to violation response and revocations. The intent is to create an effective and efficient process while ultimately reducing revocations and enhancing success for clients on supervision in the community, all while maintaining community safety.
- Establishment of an Equity and Inclusion Advisory Committee, composed of staff members who represent diverse backgrounds. The committee developed and published an internal plan to address equity and inclusion issues throughout the agency.
- Improving upon our hiring practices to ensure diversity and inclusion is prioritized throughout the process, and that our agency's values reflect a variety of backgrounds, talents and skills working together.
- Enhancing our trainings for staff and supervisors to further promote and build on their understanding of equity and inclusion.

While we acknowledge there is more work to be done, our agency remains committed to this work, and to acknowledging our role in the inequities within our criminal justice system, and recognizing our capacity to make long-standing and systemic changes.